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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,075	05/13/2005	Ludwig Hasemann	2002CH011	1918

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CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE, NC 28205

EXAMINER

KLEMANSKI, HELENE G

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Ans

Office Action Summary	Application No. 10/535,075	Applicant(s) HASEMANN, LUDWIG	
	Examiner Helene Klemanski	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-11 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 4, line 16 of the specification, a comma should be inserted between the terms "R" and "R". Appropriate correction is required.

Claim Objections

2. Claims 1-4 and 11 are objected to because of the following informalities: in claim 1, the seventh and eighth lines after the formula (I), the phrase "Alkyl, Aryl, Alkoxy" should be replaced with the phrase "alkyl, aryl, alkoxy"; in claim 2, the eighth line after the formula (I'), the phrase "Alkyl, Aryl" should be replaced with the phrase "alkyl, aryl"; also in claim 2, the tenth line after formula (I'), the phrase "R₅, R₆, R₇, R₈ or R₉" should be replaced with the phrase "R'₅, R'₆, R'₇, R'₈ or R'₉"; lastly in claim 2, the thirteenth line after the formula (I'), a comma should be inserted between the terms "R" and "R"; in claim 3, line 2, the term "R₉" should be replaced with the term "R'₉"; in claim 4, the eleventh line after formula (I'), the phrase "R₅, R₆, R₇, R₈ or R₉" should be replaced with the phrase "R'₅, R'₆, R'₇, R'₈ or R'₉"; and in claim 11, the term "R'₉" should be replaced with the term "R₉". Appropriate correction is required.

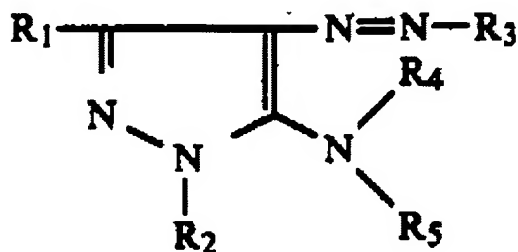
Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (US 4,981,837).

Tanaka et al. teach a heat-sensitive transfer material comprising a support such as paper having thereon a coloring material layer containing at least one dye of the formula



wherein R₁ represents an alkyl group such as methyl; R₂ represents an aryl group such as phenyl, p-tolyl, p-methoxyphenyl, p-chlorophenyl or o-methoxyphenyl; R₃ represents a heterocyclic group such as benzothiazole wherein one or more of the H atoms on the ring may be replaced with an alkyl, alkoxy, halogen, ester, acyl, acylamino, sulfonyl, sulfamoyl, sulfonamido, amino, alkylamino or hydroxyl group; and R₄ and R₅ represent H, wherein each of the above substituent groups may further be substituted and a binder resin. The heat-sensitive transfer material is prepared by preparing a coating

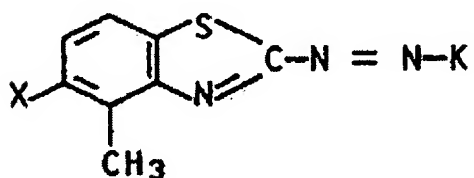
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composition (i.e. ink) by dissolving or dispersing the above dye and a binder resin in a suitable solvent such as water and various organic solvents and coating the composition onto one side of the support and drying the coating to provide the heat-sensitive transfer layer. See col. 1, line 65 – col. 4, line 6, Compound No. 17, col. 19, lines 32-47, col. 10, lines 11-34, col. 11, lines 62-66, col. 12, lines 6-20 and example 1. Tanaka et al. fail to specifically exemplify the use of a dye wherein the phenyl attached to the pyrazole ring has at least one substituent that is not H as claimed by applicants.

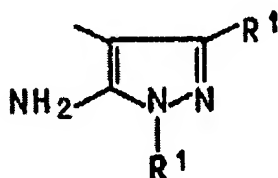
Therefore, it would have been obvious to one having ordinary skill in the art to use the specific dye wherein the phenyl attached to the pyrazole ring has at least one substituent that is not H as claimed by applicants as Tanaka et al. also discloses the use of these dyes but fails to show an example incorporating them.

5. Claims 1, 6, 7, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE3433957.

DE3433957 teaches a benzothiazole dye of the formula



wherein X is Cl or Br; K is a coupler residue of the formula



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wherein R¹ is an alkyl group or an aryl group such as methyl, phenethyl, tolyl or chlorophenyl. The dyes are useful as disperse dyes for synthetic fibers such as cellulose ester, polyamide or polyester and give bright yellow shades. See the abstract, pages 2-3, compounds 33 and 34 on page 10 and claims 1 and 3. DE3433957 fails to specifically exemplify the use of a dye wherein the phenyl attached to the pyrazole ring has at least one substituent that is not H as claimed by applicants.

Therefore, it would have been obvious to one having ordinary skill in the art to use the specific dye wherein the phenyl attached to the pyrazole ring has at least one substituent that is not H as claimed by applicants as Tanaka et al. also discloses the use of these dyes but fails to show an example incorporating them.

Allowable Subject Matter

6. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: None of the cited prior art teach or fairly suggest a benzothiazole pyrazole dye of the formula as claimed by applicants wherein the phenyl ring attached to the pyrazole group has a 6-membered ring annealed to the phenyl group and is of the formulas as claimed by applicants.

Conclusion

The remaining references listed on forms 892 and 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.


Applicants should note that the examiner has considered the DE3433957, JP2002/309117, EP0331170 (equivalent is US 4,981,837) and CH 584747 references cited on the search report dated February 13, 2004 and has included them on PTO-892 since there was no IDS present in the file. The examiner was unable to obtain a copy of the GB1413315 or FR2387267 references and these were NOT considered. The examiner will consider the above GB and FR references if applicants would submit an IDS and include copies of both of these references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Helene Klemanski
Primary Examiner
Art Unit 1755



HK
March 30, 2006